

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

AFFYMETRIX, INC., a Delaware corporation,

Plaintiff/Counter-Defendant,

V.

ILLUMINA, INC., a Delaware corporation,

Defendant/Counter-Plaintiff.

Civil Action No. 04-901-JJF

**ILLUMINA'S OBJECTIONS AND RESPONSES TO AFFYMETRIX INC.'S
DECEMBER 22, 2005 NOTICE OF DEPOSITION
PURSUANT TO FED. R. CIV. P. 30(b)(6)**

Illumina, Inc. (“Illumina”) hereby objects and responds to Affymetrix, Inc.’s (“Affymetrix”) Notice of Deposition of Illumina, Inc. Pursuant to Fed. R. Civ. P. 30(b)(6) served December 22, 2005.

GENERAL OBJECTIONS

To avoid undue and unnecessary repetition, all of Illumina's specific responses to the areas of testimony are subject to the following general objections:

1. Illumina objects to each area of testimony to the extent it seeks to impose discovery obligations upon Illumina beyond those provided for by the Federal Rules of Civil Procedure, the Local Rules of this Court or governing case law.

2. Illumina objects to each area of testimony to the extent it seeks testimony protected by the attorney-client privilege, work product doctrine, and other common law or statutory privilege, or other documents and things that are otherwise immune from discovery.

3. Illumina objects to each area of testimony to the extent it seeks testimony that is neither relevant to any issue in this action nor likely to lead to the discovery of admissible evidence.

4. Illumina incorporates by reference as if fully set forth herein its General Objections to Definitions as disclosed in Illumina's responses to Affymetrix Inc.'s First Set of Requests for Production of Documents, Second Set of Requests for Production of Documents, and Third Set of Requests for Production.

**SPECIFIC OBJECTIONS AND RESPONSES TO AFFYMETRIX INC.'S
AREAS OF TESTIMONY FOR NOTICE SERVED ON DECEMBER 22, 2005**

AREA OF TESTIMONY NO. 1:

The design, testing, manufacture, and use of the Infinium™ assay.

RESPONSE TO AREA OF TESTIMONY NO. 1:

Illumina objects to this area of testimony as overly broad and unduly burdensome because it seeks testimony that is not reasonably calculated to lead to the discovery of admissible evidence. Illumina also objects to this area of testimony because it is unclear what Affymetrix means by the "testing of," "manufacture of," or the "use of" the assay.

Subject to and without waiving its General and Specific Objections, Illumina will produce a witness to provide non-privileged, discoverable testimony regarding this area of testimony.

AREA OF TESTIMONY NO. 2

The design, testing, manufacture, and use of the GoldenGate® assay.

RESPONSE TO AREA OF TESTIMONY NO. 2

Illumina objects to this area of testimony as overly broad and unduly burdensome because it seeks testimony that is not reasonably calculated to lead to the discovery of admissible evidence. Illumina also objects to this area of testimony because it is unclear what Affymetrix means by the “testing of,” “manufacture of,” or the “use of” the assay.

Subject to and without waiving its General and Specific Objections, Illumina will produce a witness to provide non-privileged, discoverable testimony regarding this area of testimony.

AREA OF TESTIMONY NO. 3:

The design, testing, manufacture, and use of custom genotyping products and services.

RESPONSE TO AREA OF TESTIMONY NO. 3:

Illumina objects to this area of testimony as overly broad and unduly burdensome because it seeks testimony that is not reasonably calculated to lead to the discovery of admissible evidence. Illumina also objects to this area of testimony because it is unclear what Affymetrix means by the “testing of,” “manufacture of,” or the “use of” a custom genotyping product or service.

Subject to and without waiving its General and Specific Objections, Illumina will produce a witness who will provide non-privileged, discoverable testimony for this area of testimony for those Illumina products and services that are commercially available for custom genotyping applications.

AREA OF TESTIMONY NO. 4

The design, testing, manufacture, and use of the Sentrix® Genome-Wide Expression BeadChips.

RESPONSE TO AREA OF TESTIMONY NO. 4

Illumina objects to this area of testimony as overly broad and unduly burdensome because it seeks testimony that is not reasonably calculated to lead to the discovery of admissible evidence. Illumina also objects to this area of testimony because it is unclear what Affymetrix means by the “testing of,” “manufacture of,” or the “use of” the Sentrix® Genome-Wide Expression BeadChip.

Subject to and without waiving its General and Specific Objections, Illumina will produce a witness to provide non-privileged, discoverable testimony regarding this area of testimony.

AREA OF TESTIMONY NO. 5:

The design, testing, manufacture, and use of focused-content and custom gene expression products and services.

RESPONSE TO AREA OF TESTIMONY NO. 5:

Illumina objects to this area of testimony as overly broad and unduly burdensome because it seeks testimony that is not reasonably calculated to lead to the discovery of admissible evidence. Illumina also objects to this area of testimony because it is unclear what Affymetrix means by the “testing of,” “manufacture of,” or the “use of” a focused-content and custom gene expression product and service.

Subject to and without waiving its General and Specific Objections, Illumina will produce a witness who will provide non-privileged, discoverable testimony regarding this area of testimony for those Illumina products and services that are commercially available for gene expression applications.

AREA OF TESTIMONY NO. 6:

The design, testing, manufacture, and use of the DASL™ assay.

RESPONSE TO AREA OF TESTIMONY NO. 6

Illumina objects to this area of testimony as overly broad and unduly burdensome because it seeks testimony that is not reasonably calculated to lead to the discovery of admissible evidence. Illumina also objects to this area of testimony because it is unclear what Affymetrix means by the “testing of,” “manufacture of,” or the “use of” the assay.

Subject to and without waiving its General and Specific Objections, Illumina will produce a witness to provide non-privileged, discoverable testimony regarding this area of testimony.

AREA OF TESTIMONY NO. 7

The design, testing, manufacture, and use of Array Matrix products.

RESPONSE TO AREA OF TESTIMONY NO. 7

Illumina objects to this area of testimony as overly broad and unduly burdensome because it seeks testimony that is not reasonably calculated to lead to the discovery of admissible evidence. Illumina also objects to this area of testimony because it is unclear what Affymetrix means by the “testing of,” “manufacture of,” or the “use of” Array Matrix products.

Subject to and without waiving its General and Specific Objections, Illumina will produce a witness to provide non-privileged, discoverable testimony regarding this area of testimony.

AREA OF TESTIMONY NO. 8:

The design, testing, manufacture, and use of BeadChip products.

RESPONSE TO AREA OF TESTIMONY NO. 8:

Illumina objects to this area of testimony as overly broad and unduly burdensome because it seeks testimony that is not reasonably calculated to lead to the discovery of admissible evidence. Illumina also objects to this area of testimony because it is unclear what Affymetrix means by the “testing of,” “manufacture of,” or the “use of” BeadChip products.

Subject to and without waiving its General and Specific Objections, Illumina will produce a witness to provide non-privileged, discoverable testimony regarding this area of testimony.

AREA OF TESTIMONY NO. 9:

The design, testing, manufacture, and use of BeadArray™ Reader.

RESPONSE TO AREA OF TESTIMONY NO. 9:

Illumina objects to this area of testimony as overly broad and unduly burdensome because it seeks testimony that is not reasonably calculated to lead to the discovery of admissible evidence. Illumina also objects to this area of testimony because it is unclear what Affymetrix means by the “testing of,” “manufacture of,” or the “use of” the BeadArray™ Reader.

Subject to and without waiving its General and Specific Objections, Illumina will produce a witness to provide non-privileged, discoverable testimony regarding this area of testimony.

AREA OF TESTIMONY NO. 10:

The design, testing, manufacture, and use of the BeadStation 500G, BeadStation 500X, and BeadStation 500GX systems

RESPONSE TO AREA OF TESTIMONY NO. 10:

Illumina objects to this area of testimony as overly broad and unduly burdensome because it seeks testimony that is not reasonably calculated to lead to the discovery of admissible evidence. Illumina also objects to this area of testimony because it is unclear what Affymetrix means by the “testing of,” “manufacture of,” or the “use of” the BeadStation systems.

Subject to and without waiving its General and Specific Objections, Illumina will produce a witness to provide non-privileged, discoverable testimony regarding this area of testimony.

AREA OF TESTIMONY NO. 11:

The design, testing, manufacture, and use of the BeadLab systems.

RESPONSE TO AREA OF TESTIMONY NO. 11:

Illumina objects to this area of testimony as overly broad and unduly burdensome because it seeks testimony that is not reasonably calculated to lead to the discovery of admissible evidence. Illumina also objects to this area of testimony because it is unclear what Affymetrix means by the “testing of,” “manufacture of,” or the “use of” the BeadLab systems.

Subject to and without waiving its General and Specific Objections, Illumina will produce a witness to provide non-privileged, discoverable testimony regarding this area of testimony.

AREA OF TESTIMONY NO. 12:

The design, testing, manufacture, and use of software used with any of the products or systems described in Topics 1-11.

RESPONSE TO AREA OF TESTIMONY NO. 12:

Illumina objects to this area of testimony as overly broad and unduly burdensome because it seeks testimony that is not reasonably calculated to lead to the discovery of admissible evidence. Illumina also objects to this area of testimony because it is unclear what Affymetrix means by the “testing of,” “manufacture of,” and “use of” software.

Subject to and without waiving its General and Specific Objections, Illumina will produce a witness who will provide non-privileged, discoverable testimony regarding this area of testimony for the software that is used in the reading of genotyping products to make a genotyping call.

Dated: February 9, 2006

/s/ Richard K. Herrmann

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of February, 2006, I caused to be electronically filed the foregoing document, **ILLUMINA'S OBJECTIONS AND RESPONSES TO AFFYMETRIX, INC.'S DECEMBER 22, 2005 NOTICE OF DEPOSITION PURSUANT TO FED. R. CIV. P. 30(b)(6)**, with the Clerk of the Court using CM/ECF which will send notification of such filing to the following:

Jack B. Blumenfeld, Esq.
MaryEllen Noreika, Esq.
Morris Nichols Arsht & Tunnell
1201 Market Street
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Additionally, I hereby certify that on the 9th day of February, 2006, the foregoing document was served via email and Federal Express on the following non-registered participants:

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